

Exhibit A

Administrative Record

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May 4, 2007

Mayor and City Council
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Subject: **Faith Fellowship Application for Assembly Overlay Rezoning
14600 Catalina Street**

Honorable Mayor Santos and Members of the Council,

It is simple common sense to allow Faith Fellowship Church, which has completely outgrown its residential setting, to relocate to Catalina Street where unused arterial streets on Sunday morning and ample parking (both on-site and on-street) will make life better for both neighborhoods. (Attachment 1. Photos of current and proposed locations at 10 a.m. Sunday morning.)

History

In March 2006 the Faith Fellowship congregation entered into a purchase agreement to buy a 3.56 acre property at 14600 Catalina Street. The purchase agreement allowed many months for due diligence and processing any necessary City permits.

The site and building at 14600 Catalina Street is ideal for the proposed church use: The 3.56 acre parcel has a 46,080 sq. ft. building and 188 parking spaces, with excellent access to major arterials in every direction. (Site plan, Attachment 2) Faith Fellowship, with a congregation of over 1000 souls, has outgrown its current location in the Manor Street residential neighborhood. Peak parking on Sunday mornings overflows for blocks around, to the detriment of Manor Street residential neighbors.

Church elders immediately met with the City Manager and Planning Director to ask direction on how to proceed. The City officials told the Church that the industrial districts did not allow churches. But, several similar assembly uses are permitted by conditional use permit in industrial districts such as commercial recreation and entertainment. Following City staff direction, Faith Fellowship applied way last May 18 for rezoning to the IL (Industrial Limited) district so a conditional use permit could be processed to approve the proposed Church use.

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City staff realized that limiting churches to residential zones had the effect of prohibiting large congregations like Faith Fellowship from locating in San Leandro, in violation of good planning practice and Federal law. The City then began an extended 11 month process to create an assembly overlay (AO) district. The AO District has now been adopted, but does not include the applicant's property. While the City process dragged on, after 9 months in contract, Faith Fellowship was forced to close escrow on 14600 Catalina Drive in January 2007.

Staff Report

The Planning Staff report raises several potential problems to which there are good answers:

1. Arterial access: The building is located on Farallon Avenue. Farallon Avenue is a major street with extra width, including a middle turn lane. All of the City General Plan maps, and Mapquest, show Farallon Avenue with double width as if it is an arterial street. Farallon Avenue connects to all major arterials in the area (Doolittle, Wicks, Merced, Manor, Lewelling, Marina, and so on. Those arterials have ready connection points to I-880 and I-238. A traffic count between 10 a.m. and 11 a.m. on a Sunday morning counted only 50 vehicles traveling past the proposed church on Farallon Avenue. The site could not have better access. (Attachment 3, Map of Street System)

2. Potential conflict with hazardous materials uses: Paul Gantt, President of Safety Compliance Management, Inc., and a former Fire Chief, testified at the Planning Commission that church uses are compatible with light industrial uses. (Attachment 4, Mr. Gantt's education and background) Hazardous materials are systematically regulated under the building code and numerous other statutes, with the most hazardous materials subject to second and third levels of containment. The building code obligates the user of hazardous materials to provide a system that effectively prohibits migration of hazardous materials off that particular property.

Mr. Gantt has done further research to establish that there are apparently no locations in the recently adopted AO District that are over 2 acres in size, and more than $\frac{1}{4}$ mile from a business with a Hazardous Materials Business Plan (HazMat Plan), the very criteria being used in the Staff Report to claim the proposed Catalina Street location is unsafe.

Virtually all cities in the Bay Area allow churches in light industrial zones, so there is plenty of experience with this issue. In fact, Mr. Gantt is a member of Crosswinds Church, a 3000 member congregation located in an industrial zone in Dublin.

Moreover, if church uses are incompatible with light industrial uses, why did the City just rezone 196 properties, mostly in industrial locations, to the AO District? If proximity to HazMat Plans is fatal to proposed assembly uses, then there are no locations in San Leandro for large congregations to locate. If the use of the AO zone is a spot zone, then why did the City just adopt at least 15 different spots of AO zoning scattered all over San Leandro? (Attachment 5. Map of AO zoned properties)

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3. Loss of Industrial Base: The General Plan does express concern about encroachment of incompatible residential and retail uses into industrial areas. Churches are different.

Displacement? No. A church use does not permanently displace industrial uses the way residential and retail uses do. The church use fits within an existing industrial building, with primarily tenant improvements on the inside. The building is amenable to return to industrial use when the church use moves on, which has happened frequently at Valley Business Park in Pleasanton.

Cumulative Effect? No. There are not enough large churches or churchgoing people to absorb any significant quantity of industrial land. In no city permitting churches in industrial areas has there been a problem with mass conversion to religious uses.

Sensitive Receptor? No. The argument was that churches are a sensitive receptor that would drive businesses that use hazardous materials away for regulatory reasons. This is a concept invented by planners in ignorance of the building code and other hazardous materials regulations, which rely upon on-site controls and containment. Moreover, Mr. Gannt calculates that there are more workers during weekdays within $\frac{1}{4}$ mile of any industrial location (2000 plus), than people at the Easter church service (700). And hazmat releases occur when businesses are operating, not when closed on Sunday morning.

Study Area? The Somar Area, like much of San Leandro, is designated for future study. But, "future study" cannot reasonably be used to create a de facto moratorium on uses which are compatible with light industrial uses. The real General Plan issue is compatibility of churches with industrial uses. The experience of Dublin, Pleasanton, Livermore, Fremont, Concord, and other well planned cities shows that churches are compatible with industrial uses for the following reasons:

4. Compatibility of Church and Industrial Uses.

- **Traffic and parking:** Church peak uses are on Sunday mornings, and evening prayer meetings. These are the times when industrial uses are at their low ebb.
- **Informal policing.** Alert citizens coming on weekends and evenings will provide eyes on the street and enhance the security of the industrial area, which is typically abandoned and subject to vandalism at night and on weekends. Having a church nearby is like having a night watchman for free.
- **Amenity.** The mixed use may provide service to nearby industrial employees, as a haven, potential human services like baby sitting, and overflow parking on weekdays.
- **Neighbor support.** The actual neighboring businesses of the proposed Faith Fellowship have almost all made friends and signed letters of support. (Attachment 6: Red dots indicate neighboring businesses in support of the proposed Catalina Street church location).

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Churches Are a Community Amenity

In proposed Finding No. VII, that “Denial . . . does not place a substantial burden on the religious exercise of the applicant” conveys the staff attitude that religious uses are to be discouraged, and allowed only to the legal minimum, like adult entertainment uses. In fact, churches should be encouraged and accommodated in the places where they can co-exist compatibly with their neighbors. Churches are caring communities that provide many people with support, guidance, services, and connectedness that government and the private sector simply do not provide.

Legal Requirements

Based upon the criteria put forth in the Staff Report, there are no locations in San Leandro where a large congregation can locate. As explained in the letter from Kevin Snider of the Pacific Justice Institute, the City is obligated under Federal Law to make reasonable locations available for churches (Attachment 6. May 2, 2007 letter). The City is legally obligated to approve this rezoning, and apparently will be liable for the back mortgage payments if the rezoning application is denied.

Conclusion

When you look closely at the arguments against churches in industrial areas, they all fall apart. This proposed rezoning is consistent with the General Plan because churches and light industrial are harmonious and complementary uses.

The City of Leandro should be ashamed of this Staff Recommendation. Your staff uses state of the art computer programs and data manipulation to advocate a planning concept (monolithic industrial) that was state the art in 1960. The City of San Leandro should be ashamed of the multi-year approval process these good people have been dragged through. I know of no city with a people oriented planning process that has concluded churches are not compatible with industrial areas. **A place without a place for churches, is a place without a soul.** Is that what kind of place San Leandro is? We hope not. With your vote Monday evening, you will answer that question.

Sincerely,

Peter MacDonald

Attachments:

1. Photos of Manor Street and Farralon Avenue at 10 a.m. Sunday.
2. Site plan for Faith Fellowship church.
3. Street map showing arterial access to proposed church.
4. Paul Gantt experience and education.
5. AO Zones within City.
6. Map of supporters in Manor Street and Catalina Street Neighborhoods.
7. Letter from Pacific Justice Institute dated May 2, 2007.